

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TRAVIS LEE SULLIVAN,

Plaintiff,

v.

JULIA CHILDREY,

Defendant.

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No. 4:18-cv-1395-RLW

MEMORANDUM AND ORDER

This matter is before the Court upon the motion for leave to proceed *in forma pauperis*, filed by plaintiff Travis Lee Sullivan. The motion will be granted, and plaintiff will be given another opportunity to file an amended complaint.

Plaintiff is a pretrial detainee who is currently incarcerated at the St. Louis County Justice Center. He initiated this civil action on August 13, 2018 by filing a letter to the Clerk of Court.¹ In the letter, plaintiff claimed that unidentified individuals were denying him unspecified medical care, and access to legal materials. Plaintiff neither paid the filing fee nor sought leave to proceed *in forma pauperis*. On August 27, 2018, the Court directed him to either pay the filing fee or file a motion for leave to proceed *in forma pauperis*, and to file an amended complaint on the Court's form. In response, plaintiff filed a motion for leave to proceed *in forma pauperis*.² The Court has reviewed the motion, and will grant it to the extent plaintiff seeks

¹ Before filing the instant action, plaintiff filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. *Sullivan v. Childrey*, No. 4:18-cv-1201 DDN (E.D. Mo. Jul. 16, 2018). As of the date of this Memorandum and Order, that case remains pending.

² The motion for leave to proceed *in forma pauperis* includes a letter addressed to the Clerk of Court, alleging denial of legal materials and interference with mail. The motion will be granted only to the extent plaintiff seeks leave to proceed *in forma pauperis* in this action, and denied to the extent plaintiff seeks any other form of relief.

leave to proceed *in forma pauperis* in this action. Plaintiff also submitted a copy of his inmate account statement, showing an average monthly balance of \$74.14, and an average monthly deposit of \$44.67. The Court will therefore assess an initial partial filing fee of \$14.83, which is twenty percent of his average monthly balance. *See* 28 U.S.C. § 1915(b)(1).

Plaintiff also filed several informal letters describing things he believes violate his constitutional rights. These include infirmities in his state court criminal proceedings, and interference with his mail and denial of access to legal materials by unidentified persons at the St. Louis County Justice Center. Among these documents is one in which plaintiff states he seeks to remove to this Court an unidentified state court criminal proceeding.

Review of Missouri Case.net, the state of Missouri's online docketing system, shows that plaintiff is a defendant in two pending criminal cases. In *State v. Travis Sullivan*, No. 18SL-CR04665 (21st Jud. Cir. 2018), plaintiff is charged with first degree robbery, first degree assault, and armed criminal action. In *State v. Travis Sullivan*, No. 18SL-CR06732 (21st Jud. Cir. 2018), plaintiff is charged with possession of a controlled substance. In seeking removal, plaintiff neither identifies the state court criminal prosecution he seeks to remove, nor satisfies either prong of the test required for removal of a state court criminal prosecution under 28 U.S.C. § 1443(1). While plaintiff cites 28 U.S.C. § 1445, that section provides no substantive basis for removal jurisdiction.

None of the letters plaintiff has filed can be construed as compliance with this Court's August 27, 2018 Order directing him to file an amended complaint on the Court's form. In consideration of plaintiff's *pro se* status, the Court will provide him another opportunity to do so. Plaintiff has thirty days from the date of this Order to file an amended complaint in accordance

with the specific instructions set forth here. All claims in the action must be included in one, centralized complaint form. *See* Fed. R. Civ. P. 7(a)(1), 8(a).

Plaintiff is advised that he may not communicate with the Court by submitting letters. *See* E.D.Mo. L.R. 4.04(A). Plaintiff is warned that the filing of an amended complaint replaces the original complaint and all previously-filed pleadings, so plaintiff must include each and every one of the claims he wishes to pursue in the amended complaint. *See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Any claims from the original complaint, supplements, and/or pleadings that are not included in the amended complaint will be deemed abandoned and will not be considered. *Id.* The allegations in the complaint must show how each and every defendant is directly responsible for the alleged harms. If plaintiff wishes to sue defendants in their individual capacities, plaintiff must specifically say so in the amended complaint. If plaintiff fails to sue defendants in their individual capacities, this action may be subject to dismissal.

All of plaintiff's claims should be clearly set forth in the "Statement of Claim." If plaintiff fails to file an amended complaint on the Court's form within thirty days and in compliance with the Court's instructions, the Court will dismiss this action without prejudice and without further notice. Plaintiff is advised that writing letters to the Clerk of Court is not the proper way to bring claims before the Court.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed *in forma pauperis* (Docket No. 6) is **GRANTED** to the extent plaintiff seeks leave to proceed *in forma pauperis* in this action, and **DENIED** in all other respects.

IT IS FURTHER ORDERED that plaintiff must pay an initial filing fee of \$14.83 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) the statement that the remittance is for an original proceeding.

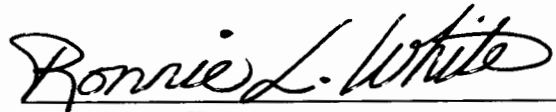
IT IS FURTHER ORDERED that the Clerk shall mail to plaintiff a copy of the Court's August 27, 2018 Memorandum and Order. (Docket No. 2).

IT IS FURTHER ORDERED that the Clerk shall mail to plaintiff a copy of this Court's prisoner civil rights complaint form.

IT IS FURTHER ORDERED that plaintiff must file an amended complaint on the Court's form within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice. If the case is dismissed for non-compliance with this Order, the dismissal will **not** count as a "strike" under 28 U.S.C. § 1915(g).

Dated this 11th day of September, 2018.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE